



# Delegated decision report

## DECISION UNDER DELEGATED POWERS

**DECISION CANNOT BE TAKEN BEFORE TUESDAY,  
19 MARCH 2013**

Title	<b>DISPOSAL OF COWES YOUTH CENTRE AND ADJACENT LAND</b>
Report of/to	REPORT TO THE DEPUTY LEADER AND CABINET MEMBER FOR THE ECONOMY AND REGULATORY SERVICES

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### EXECUTIVE SUMMARY

1. The new model of youth service provision which has been adopted by the Council means that the service no longer requires the use of Cowes Youth Centre on a full time basis. The United Kingdom Sailing Academy (UKSA), in association with the Island Youth Water Activity Centre (IYWAC) has approached the Council seeking to be treated as a special purchaser for both the youth centre and the adjacent building currently occupied by IYWAC.
2. UKSA has plans, in conjunction with IYWAC, to combine the youth centre land and buildings with its sailing academy premises in order to expand the onsite residential accommodation (strictly used in support of training); expand the number of students that it can teach; enable IYWAC to relocate into part of the youth centre building to create modern shower and changing facilities and office space, whilst demolishing the existing IYWAC building to create further boat storage and parking areas.
3. This paper recommends that the UKSA is treated as a special purchaser of the youth centre and IYWAC buildings conditional on the buildings only being used for youth related activities and agreement being reached for continued limited access to the facilities to assist the Council in the delivery of its statutory obligations for youth services.

### BACKGROUND

4. The council owns the freehold of the Cowes Youth Centre site, which includes the land occupied by the Island Youth Water Activities Centre (IYWAC) (both of which are shown coloured pink on the plan in appendix 1) and, adjacent to this, the land occupied by Cowes Sea Cadets (The Sea Cadets currently occupies its site, shown blue in appendix 1, under lease from the council). The site is situated between Arctic Road and the River Medina.

5. Within the River Medina, and accessed via the Cowes Youth Centre site, is Whitegates Pontoon which is occupied by the council under a 15 year lease from 2006 at a rent of £650 per annum. The terms of this lease are such that this pontoon can only be used in conjunction with the adjacent lands (including IYWAC and the Sea Cadets) site. The landlord is the Crown Estate.
6. The proposed disposal of Cowes Youth Centre is as a result of the delegated decision, "Concluding Stage of the Review of the Council's Youth and Community Service", taken by the Cabinet Member in January 2012. The purpose of the review was to approve the restructuring of the Island's statutory youth service, key to which was the targeting of resources to provide year round services and activities, rather than maintaining expensive and outdated buildings.
7. Proposals were included within the report for the future of each youth centre building and the proposal for the Cowes site was for, "discussions to take place with a view to a disposal of the property, preferably to retain the site's purpose built facilities for the benefit of the community". It is with this in mind that the council is proposing to enter into negotiations with UKSA as special purchaser.
8. UKSA has approached the council requesting the opportunity to enter into negotiations to purchase the freehold of the youth centre and also the site occupied by IYWAC. It is working in partnership with IYWAC, although UKSA will be the actual purchaser in light of funding availability. The Sea Cadets are aware of the UKSA proposals but have made no proposals of its own to purchase the sites (possibly because it has just undertaken a major funding drive to build its new facility). Attached at appendix 2 is a letter from the UKSA setting out its plans should it acquire the youth centre and IYWAC buildings.
9. It would be normal practice for the council to market an asset for disposal to ensure it receives best consideration for it through a competitive process. Ultimately the value of an asset will depend on the price that possible purchasers are willing to pay for it; this in itself will be determined by prevailing market conditions at the time of marketing, and on any restrictions placed by the council on the sale in respect of use and development (such as ensuring continued youth activities from the site).
10. The council does however make provision for dealing with a single bidder for an asset where that bidder falls within the definition of a "special purchaser" as defined by the Royal Institution of Chartered Surveyors (RICS), being a "purchaser to whom a particular asset has a special value because of the advantages arising from its ownership that would not be available to general purchasers in the market".
11. Where an organisation that meets this definition of special purchaser wishes to acquire a council asset, it is the council's practice to secure two independent valuations of the asset (funded by the proposed special purchaser). This helps the council to ensure that it would be receiving the "best consideration" for the site should the special purchaser be willing to pay the value of the site as assessed by the independent valuations.
12. The best consideration the council may receive for an asset does not have to only be defined in monetary terms. The council may wish to achieve some social, economic or other benefits from the disposal of the asset and could seek to impose restrictive covenants on a purchaser to ensure that such benefits are received (the proposed

covenants are set out within the legal implications section of this report). The overall value of these benefits can however be based only on a clear understanding of the financial value of the site as determined by a proper valuation.

13. UKSA falls within the RICS definition of a special purchaser as its land adjoins the youth centre and IYWAC buildings and the acquisition would enable it to expand its sailing academy and widen the opportunities for achieving its charitable aim of, “being dedicated to change lives through personal development and maritime education”. For these reasons it has asked that the council agree to treat it as a special purchaser for the site so that it can enter into detailed negotiations for its purchase.
14. IYWAC could also be treated as a special purchaser of its own site and also that of the youth centre. It has however confirmed that it is seeking to work with UKSA on its proposal to the mutual benefit of both organisations. A Memorandum of Understanding (MOU) between the organisations has been agreed in this regard.
15. A MOU is not however legally binding and members may wish, given that IYWAC has developed with significant Council support over the years, to ensure IYWAC’s interests are given a greater degree of protection than a MOU provides. This could be achieved by initially leasing the IYWAC site to the UKSA rather than disposing of its freehold. This would require IYWAC to surrender its current lease to the council at the time the sale agreement of the youth centre to the UKSA is completed and simultaneously IYWAC would take a new lease for its current facility and part of the youth centre from UKSA. Alternately, protection can be provided through a conditional freehold disposal such that the freehold transfer cannot take place until an agreed lease is in place between UKSA and IYWAC with the documents being simultaneously completed.

## STRATEGIC CONTEXT

16. In December 2010 the council’s cabinet agreed the future shape and direction of the organisation, of which one of the key principles is that “the council will actively seek to sell or dispose of assets that are surplus to requirements where practicable to maximum capital receipts, or lease them where it is not”. The disposal of this asset would meet this principle.
17. The disposal of this council asset will also contribute towards a number of the Isle of Wight Council’s key corporate objectives, as detailed in the corporate plan for 2011-2013.
  - Delivery of budget savings thorough changed service provision: delivering services in different ways will allow the release of council buildings, thereby creating significant savings of accommodation and maintenance costs, as well as generating capital receipts.
  - Regeneration and the economy: seeking the best quality use of surplus/disused property assets may ensure high quality regeneration opportunities are realised.
  - Keep children safe: continued use of the site by children and young people will ensure that they remain safe and enjoy healthy lives.

18. This proposal will also contribute towards a number of the priorities within the Isle of Wight's sustainable community strategy 2008-2020 (also known as Eco Island) namely
- Inspiring Island: helping reduce childhood inequalities by tackling poverty, neglect and domestic violence and supporting families and carers to provide a safe and positive environment for our young people.
  - Healthy and Supportive Island: by helping to reduce levels of obesity in all ages and improving health, emotional wellbeing and life expectancy across the Island.
  - Safe and Well-kept Island: by reducing anti-social behaviour and disorder.
19. If this property is disposed of it will release a capital receipt in to the council's corporate account as part of the annual capital receipts target.

### CONSULTATION

20. The Deputy Leader and Cabinet Member for the Economy and Regulatory Services and the Cabinet Member for Public Health, Community Safety and Local Services have been consulted and no adverse response has been received.
21. The local ward councillor has been consulted and the paper has been amended to add points of clarity and explanation based on their comments. The ward member supports the continued management of Whitegates Pontoon by the Isle of Wight Council.

### FINANCIAL / BUDGET IMPLICATIONS

22. There are no direct financial or budget implications arising from the recommendations in this paper. The independent valuations of the site are to be funded by UKSA. If terms are agreed for the sale of the site to UKSA as a special purchaser then the council may receive a capital receipt or some other form of best consideration from the disposal, based on the valuations of the site.
23. The purpose of this report is to approve UKSA as a special purchaser, and to enable negotiations on this basis between the Council and UKSA. If a purchase price is subsequently agreed there will be a further report recommending this, and the capital receipt achieved will be paid into the Council's corporate account and be made available for its capital investment programme.
24. The Youth & Community Service would save on its running costs from the disposal of the site. These savings have not been assumed as part of the youth review, but would contribute toward the council's ongoing need for efficiencies.
25. Any restrictive covenants as to use imposed on the transaction would restrict value, and this will be reflected in the price agreed as part of the planned negotiations (subject to the agreement to this report). The youth service intends to continue to operate its ongoing delivery of the statutory provision of youth activities from the building (albeit this is likely to be limited in extent) and will seek to agree terms for

this to be included in a separate facility agreement at the same time as any sale is completed.

### CARBON EMISSIONS

26. During the last financial year, 2011/12, the energy consumption for Cowes Youth Centre was: electricity 19,594 kWh, and gas 77,864 kWh, giving a total carbon dioxide (CO<sub>2</sub>) emission of 24.9 tonnes. This equates to £298.80 annual saving as a result of the CRC Energy Efficiency Scheme.
27. This has already been accounted for within the Carbon Management Plan where it was estimated to achieve a carbon saving of approximately 37.7 tonnes of CO<sub>2</sub>.
28. Reduced occupancy and behavioural changes within the building since the Carbon Management Plan was produced (2009/10) have already resulted in a carbon saving of 12.8 tonnes CO<sub>2</sub>.
29. These figures are for the youth centre building only.

### LEGAL IMPLICATIONS

30. The council has the power to dispose of property under section 123 of the Local Government Act 1972, which requires it to achieve “best consideration” in any disposal.
31. Best consideration does not necessarily mean the highest price achievable. It can also be obtained from other additional benefits generated by and for the local community from the disposal provided that the council observes its fiduciary responsibilities and protects the interests of the community and itself in the transaction.
32. The council is seeking to deliver the outcomes outlined in this paper (and its earlier decision) to achieve these it will include the following restrictive covenants within any transfer:
  - the property cannot be used other than for the continued benefit of young people, particularly from the Island;
  - the property cannot be used other than for education, training, and leisure purposes;
  - The property cannot be used for residential purposes or residential development except as residential training accommodation (of a temporary not permanent nature) for use by those attending training courses run by UKSA.
  - If Whitegates Pontoon is transferred there will be a requirement for it to remain accessible for public use.
33. The Isle of Wight Council owns the freehold of the site. The youth centre is held with vacant possession, whilst the area occupied by IYWAC is occupied under lease.
34. The existing IYWAC lease was for a term of 3 years at a rent of £5,000 per annum. The lease has expired and the tenant has been “holding over” ever since. “Holding-over” is a term commonly used to describe a situation where a lease has expired but

the tenant remains in occupation on the same terms, as in the period of the lease, and is legally protected by the Landlord & Tenant Act 1954.

35. As freehold owner, the council is able to dispose of its interest, subject to the occupation of the existing tenants. If the council seeks to make a freehold disposal of the site with vacant possession it will first have to negotiate a surrender of the current lease from the existing tenant. However, as the recommended transaction is to be conditional upon a new lease being simultaneously completed with the freehold transfer, this is on the basis that the current lease is surrendered, and will be undertaken with the support of the existing tenant.
36. Whitegates Pontoon is held on a lease from the Crown Estate for a 15 year term expiring on 31 May 2021. Under the terms of the lease it cannot be disposed of in part, and a disposal of it as a whole is subject to a covenant, "not to assign the whole of the Premises except to the owner and occupier of the adjacent lands above mean water". If UKSA was to acquire the freehold of the youth centre site it would be classed as the adjacent owner.

### EQUALITY AND DIVERSITY

37. The council as a public body is subject to general and specific duties under equality and diversity legislation and as such has a duty to impact assess its service, policies/strategies and decisions with regards to diversity legislation and the protected characteristics (race, gender reassignment, disability, age, sex and sexual orientation, religion or belief, pregnancy and maternity, marriage and civil partnership). There are no direct implications for the council's duties under the terms of the Equality Act 2010 arising from the recommendation within this paper. There are no opportunities for it to eliminate unlawful discrimination, promote equal opportunities between people from different groups and foster good relations between people from different backgrounds arising from the decision to agree to a special purchaser for the land in question.

### PROPERTY IMPLICATIONS

38. As this is a property based report there are not thought to be any further property implications for consideration.

### SECTION 17 CRIME AND DISORDER ACT 1998

39. There are no direct crime and disorder implications arising from the recommendations in this paper. If, however, the youth service was to deliver its function from an alternative location and the property became vacant, such properties can be prone to vandalism and it would be in the council's interests to negotiate a disposal in that situation as soon as possible.

### OPTIONS

40. The options available to the council are
  - (1) To agree to UKSA being treated as a special purchaser for the freehold of Cowes youth centre, the IYWAC building and the assignment of the lease of

Whitegates Pontoon, with the transfer being conditional upon a new lease being simultaneously completed between UKSA and IYWAC.

- (2) To agree to UKSA being treated as a special purchaser for the freehold of Cowes youth centre, a separate lease for the IYWAC building and the separate assignment for the lease of Whitegates Pontoon.
- (3) The terms of any disposal of Cowes youth centre, the IYWAC building and the assignment for the lease of Whitegates Pontoon be consistent with the outcomes listed in paragraph 31 of the report.
- (4) Where terms are agreed for a disposal to UKSA then these will be conditional on it also reaching a separate agreement for the youth service to have access to the facilities.
- (5) To dispose of Cowes youth centre and the IYWAC building on the open market for the best price to be achieved without condition.
- (6) To wait until market conditions have improved before seeking to dispose of Cowes youth centre and the IYWAC building.

## RISK MANAGEMENT

41. UKSA's intention is to develop the youth centre building to increase the scope and capacity of its work with young people with a positive impact on employment and the economy in the area. There is a risk that if this opportunity to explore these possibilities with UKSA is not taken then they will be lost to the Island. No suitable alternative use for the youth centre has yet been identified.
42. If the Council agrees to the freehold transfer of both the youth centre and the IYWAC building to UKSA the needs of IYWAC may become subservient to those of UKSA. This is mitigated in part by the MOU between the two organisations but could be further mitigated by the simultaneous completion of documents as proposed in option 1.
43. There is a risk that the council may receive a higher consideration for the youth centre and IYWAC building if they were to be offered for sale on the open market, particularly on the basis of the restrictions as to use that may be applied. The independent valuations of the site that will inform the final sale agreement with UKSA as a special purchaser will ensure that the council is fully aware of the value of both facilities (including the unrestricted market value) in reaching this agreement.
44. There is a risk that the council will not be able to dispose of the IYWAC building on the open market (if that were the preference) without the consent of the IYWAC as the current tenant. If this consent could not be achieved the council could only consider a disposal of the building having taken it back from IYWAC through legal proceedings.
45. If the buildings are offered to the open market there is a risk that UKSA may choose not to submit an offer. As neither IYWAC or the Sea Cadets are believed to have sufficient funds to purchase either building, or redevelop them for extended youth activities, this could lead to no development taking place.

46. Waiting for an improvement in overall land values on the Island may lead to the council receiving a higher capital receipt for the land than it may be likely to receive currently. The risk is in waiting for an upturn in land values as there can be no certainty if or when this may come and the loss of potential new jobs and improved youth activity facilities with the consequent boost to the local economy that would follow. If this option was adopted, the youth centre would be unused, and IYWAC would continue the occupation of its current building. The risk is, however, that both the youth centre and IYWAC buildings are likely to deteriorate during this period as there would be little point in making capital investment to protect the condition of the buildings.
47. There remains the risk that even if the council agrees to the special purchaser agreement it may not be able to agree terms with UKSA that offer best consideration to the council.

## EVALUATION

48. A decision to agree to the proposed special purchaser arrangements with UKSA does not commit the council to a sale/transfer of the buildings to it. It does however give UKSA confidence that the council will work with it to achieve the sale subject to suitable terms being agreed which ensure the council receives best consideration for the site within the conditions being imposed on the sale.
49. The youth centre continues (for the time being) to be used to deliver the statutory youth provision for Cowes (although the youth review recognised that the buildings from which the service is delivered are not as important as the services made available within any given area). If UKSA is to purchase the property the council will need to take into account how its youth service will continue to be delivered, and the intention would be for this to form part of the negotiations relating to the disposal. A facilities agreement will need to be arranged as part of the disposal which will allow the youth service access to the facility on suitable terms. This has the potential to offer additional activities and opportunities for personal development to a wide range of Island young people, through closer partnership working between the council and these agencies.
50. Other council owned buildings within Cowes have been considered as alternative venues for the delivery of the youth service, but none are deemed suitable without significant capital investment, and the co-location of the statutory function alongside similar organisations (UKSA and IYWAC) will have considerable benefits for youth in Cowes and across the Island.
51. In reaching any agreement with UKSA the council will also need to be assured that it has the ability and available funding to undertake its planned development of the youth centre. It would be of no benefit to either party if a sale was agreed and then the building was unused for a long period of time. The council will therefore give consideration to making the sale conditional on works being completed within an agreed period of time.
52. It is thought to be in the council's, and the Island's, interests that a youth activities operator takes over the Cowes youth centre site as it is better placed than the council to undertake investment in the facility and to enhance and improve the level



of youth activities that it makes available, and which enables the council to continue and augment the delivery of its statutory provision.

### RECOMMENDATION

53. That options 1 and 3 be adopted: -

- (1) To agree to UKSA being treated as a special purchaser for the freehold of Cowes youth centre, the IYWAC building and the assignment for the lease of Whitegates Pontoon, with the transfer being conditional upon a new lease being simultaneously completed between UKSA and IYWAC .
- (3) The terms of any disposal of Cowes youth centre, the IYWAC building and the assignment for the lease of Whitegates Pontoon be consistent with the outcomes listed in paragraph 31 of the report

### APPENDICES ATTACHED

54. [Appendix 1](#) – Site plan showing the council owned land at Cowes Youth Centre.  
[Appendix 2](#) – Letter from UKSA setting out its plans.

### BACKGROUND PAPERS

55. [Review of the Council's Youth and Community Service: Concluding Stage delegated decision reference 01/12.](#)

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STUART LOVE  
Director Economy & Environment

CLLR. GEORGE BROWN  
Deputy Leader & Cabinet Member for the  
Economy & Regulatory Services

Decision

Signed

Date

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